

AMENDED IN ASSEMBLY AUGUST 30, 2013

AMENDED IN ASSEMBLY AUGUST 19, 2013

AMENDED IN ASSEMBLY AUGUST 7, 2013

AMENDED IN SENATE MAY 20, 2013

AMENDED IN SENATE APRIL 29, 2013

AMENDED IN SENATE APRIL 1, 2013

SENATE BILL

No. 760

Introduced by Senator Wright

(Principal coauthor: Assembly Member V. Manuel Pérez)

February 22, 2013

An act to add Section 40709.8 to the Health and Safety Code, relating to nonvehicular air pollution amend Sections 399.11, 399.13, 399.15, and 399.16 of the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 760, as amended, Wright. ~~Electrical generation facility: emission reduction credits. California Renewables Portfolio Standard Program.~~

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations, as defined, while local publicly owned electric utilities, as defined, are under the direction of their governing board. The Public Utilities Act imposes various duties and responsibilities on the Public Utilities Commission with respect to the purchase of electricity and requires the commission to review and adopt a procurement plan and a renewable energy procurement plan for each electrical corporation pursuant to the California Renewables Portfolio Standard Program. The California

Renewables Portfolio Standard Program requires a retail seller, as defined, and local publicly owned electric utilities to purchase specified minimum quantities of electricity products from eligible renewable energy resources, as defined, for specified compliance periods, sufficient to ensure that the procurement of electricity products from eligible renewable energy resources achieves 20% of retail sales for the period January 1, 2011, to December 31, 2013, inclusive, 25% of retail sales by December 31, 2016, and 33% of retail sales by December 31, 2020, and in all subsequent years. The program requires the commission to direct each retail seller to prepare and submit an annual compliance report that includes specified matter.

This bill would additionally require the commission to direct a retail seller to include in its annual compliance report the current status of the retail seller's procurement to ensure a balanced mix of eligible renewable energy resources required to maintain the reliability of the electrical grid without increasing fossil fuel consumption.

The program, consistent with the goals of procuring the least-cost and best-fit eligible renewable energy resources that meet project viability principles, requires that all retail sellers procure a balanced portfolio of electricity products from eligible renewable energy resources, as specified referred to as the portfolio content requirements. The program requires the commission to adopt, by rulemaking, a process that provides criteria for the rank ordering and selecting of least-cost and best-fit eligible renewable energy resources to comply with the program obligations on a total cost basis, taking into account specified matter.

This bill would additionally require that the process providing criteria for the rank ordering and selecting of least-cost and best-fit eligible renewable energy resources to comply with the program obligations include procurement of specific types of eligible renewable energy resources necessary to maintain the reliability of the electrical grid to meet electrical demand on a 24-hour basis, consider the attributes of utilizing geothermal resources, as specified, and consider eligible renewable energy resources in the area of the Salton Sea that provide additional environmental benefits that should be encouraged to meet the state's mitigation requirements for the region. The bill would revise the portfolio content requirements.

Existing law requires that a renewable energy procurement plan submitted by an electrical corporation to the commission include specified matter, including an assessment of annual or multiyear

portfolio supplies and demand to determine the optimal mix of eligible renewable energy resources with deliverability characteristics.

This bill would additionally require that the renewable energy procurement plan submitted by an electrical corporation to the commission identify each source of supply by resource type and detail how the mix of resources will maintain reliability of the electrical grid throughout each 24-hour period. The bill would require each electrical corporation, in soliciting and procuring eligible renewable energy resources, to give preference to resource types that will contribute toward ensuring a balanced resource mix that maintains reliability of the electrical grid throughout each 24-hour period without increasing consumption of fossil fuels.

Existing law authorizes the commission to waive compliance with the renewables portfolio standard for a retail seller if the commission finds that the retail seller has demonstrated specified conditions are beyond the control of the retail seller that will prevent compliance.

This bill would revise certain criteria the commission considers when determining whether to waive compliance with the renewables portfolio standard.

Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because the provisions of this bill would be a part of the act and because a violation of an order or decision of the commission implementing its requirements would be a crime, the bill would impose a state-mandated local program by expanding what is a crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law requires every air pollution control and air quality management district board to establish a system by which all reductions in the emission of air contaminants that are to be used to offset certain future increases in the emission of air contaminants to be banked prior to use to offset future increases in emissions. Existing law designates the State Air Resources Board as the responsible agency for the preparation of the state implementation plan required by the federal Clean Air Act.~~

~~This bill would prohibit every air pollution control and air quality management district that has established an emission reduction credit program, as specified, from imposing any conditions to physically destroy existing equipment that may be currently operating or not operating that is or will be retired at an electrical generation facility unless the owner or operator retires that equipment to provide emission reduction credits, emission offsets, or an offset exemption from the district or the new source review program of the federal Clean Air Act otherwise requires. By imposing new duties on air pollution control and air quality management districts, this bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 *SECTION 1. Section 399.11 of the Public Utilities Code is*
- 2 *amended to read:*
- 3 399.11. The Legislature finds and declares all of the following:
- 4 (a) In order to attain a target of generating 20 percent of total
- 5 retail sales of electricity in California from eligible renewable
- 6 energy resources by December 31, 2013, and 33 percent by
- 7 December 31, 2020, it is the intent of the Legislature that the
- 8 commission and the Energy Commission implement the California
- 9 Renewables Portfolio Standard Program described in this article.
- 10 (b) Achieving the renewables portfolio standard through the
- 11 procurement of various electricity products ~~from~~ *representing a*
- 12 *balanced mix of* eligible renewable energy resources is intended
- 13 to provide unique benefits to California, including all of the
- 14 following, each of which independently justifies the program:
- 15 (1) Displacing fossil fuel consumption within the state.
- 16 (2) Adding new electrical generating facilities in the
- 17 transmission network within the Western Electricity Coordinating
- 18 Council service area.
- 19 (3) Reducing air pollution in the state.

1 (4) Meeting the state's climate change goals by reducing
2 emissions of greenhouse gases associated with electrical generation.

3 (5) Promoting stable retail rates for electric service.

4 (6) Meeting the state's need for a diversified and balanced
5 energy generation portfolio.

6 (7) Assistance with meeting the state's resource adequacy
7 requirements *in both the near and long term*.

8 (8) Contributing to the safe and reliable operation of the
9 electrical grid, including providing predictable electrical supply,
10 voltage support, lower line losses, and congestion relief, *and*
11 *ensuring resource availability and characteristics that match the*
12 *demand for electricity*.

13 (9) Implementing the state's transmission and land use planning
14 activities related to development of eligible renewable energy
15 resources.

16 (c) The California Renewables Portfolio Standard Program is
17 intended to complement the Renewable Energy Resources Program
18 administered by the Energy Commission and established pursuant
19 to Chapter 8.6 (commencing with Section 25740) of Division 15
20 of the Public Resources Code.

21 (d) New and modified electric transmission facilities may be
22 necessary to facilitate the state achieving its renewables portfolio
23 standard targets.

24 (e) (1) Supplying electricity to California end-use customers
25 that is generated by eligible renewable energy resources is
26 necessary to improve California's air quality and public health,
27 and the commission shall ensure rates are just and reasonable, and
28 are not significantly affected by the procurement requirements of
29 this article. This electricity may be generated anywhere in the
30 interconnected grid that includes many states, and areas of both
31 Canada and Mexico.

32 (2) This article requires generating resources located outside of
33 California that are able to supply that electricity to California
34 end-use customers to be treated identically to generating resources
35 located within the state, without discrimination.

36 (3) California electrical corporations have already executed,
37 and the commission has approved, power purchase agreements
38 with eligible renewable energy resources located outside of
39 California that will supply electricity to California end-use
40 customers. These resources will fully count toward meeting the

1 renewables portfolio standard procurement requirements. In
2 addition, there are nearly 7,000 megawatts of additional proposed
3 renewable energy resources located outside of California that are
4 awaiting interconnection approval from the Independent System
5 Operator. All of these resources, if procured, will count as eligible
6 renewable energy resources that satisfy the portfolio content
7 requirements of paragraph (1) of subdivision (c) of Section 399.16.

8 *SEC. 2. Section 399.13 of the Public Utilities Code is amended*
9 *to read:*

10 399.13. (a) (1) The commission shall direct each electrical
11 corporation to annually prepare a renewable energy procurement
12 plan that includes the matter in paragraph (5), to satisfy its
13 obligations under the renewables portfolio standard. To the extent
14 feasible, this procurement plan shall be proposed, reviewed, and
15 adopted by the commission as part of, and pursuant to, a general
16 procurement plan process. The commission shall require each
17 electrical corporation to review and update its renewable energy
18 procurement plan as it determines to be necessary.

19 (2) Every electrical corporation that owns electrical transmission
20 facilities shall annually prepare, as part of the Federal Energy
21 Regulatory Commission Order 890 process, and submit to the
22 commission, a report identifying any electrical transmission
23 facility, upgrade, or enhancement that is reasonably necessary to
24 achieve the renewables portfolio standard procurement
25 requirements of this article. Each report shall look forward at least
26 five years and, to ensure that adequate investments are made in a
27 timely manner, shall include a preliminary schedule when an
28 application for a certificate of public convenience and necessity
29 will be made, pursuant to Chapter 5 (commencing with Section
30 1001), for any electrical transmission facility identified as being
31 reasonably necessary to achieve the renewable energy resources
32 procurement requirements of this article. Each electrical
33 corporation that owns electrical transmission facilities shall ensure
34 that project-specific interconnection studies are completed in a
35 timely manner.

36 (3) The commission shall direct each retail seller to prepare and
37 submit an annual compliance report that includes all of the
38 following:

39 (A) The current status and progress made during the prior year
40 toward procurement of eligible renewable energy resources as a

percentage of retail sales, including, if applicable, the status of any necessary siting and permitting approvals from federal, state, and local agencies for those eligible renewable energy resources procured by the retail seller, and the current status of compliance with the portfolio content requirements of subdivision (c) of Section 399.16, including procurement of eligible renewable energy resources located outside the state and within the WECC and unbundled renewable energy credits.

(B) If the retail seller is an electrical corporation, the current status and progress made during the prior year toward construction of, and upgrades to, transmission and distribution facilities and other electrical system components it owns to interconnect eligible renewable energy resources and to supply the electricity generated by those resources to load, including the status of planning, siting, and permitting transmission facilities by federal, state, and local agencies.

(C) Recommendations to remove impediments to making progress toward achieving the renewable energy resources procurement requirements established pursuant to this article.

(D) The current status of the retail seller's procurement to ensure a balanced mix of eligible renewable energy resources required to maintain the reliability of the electrical grid without increasing fossil fuel consumption.

(4) The commission shall adopt, by rulemaking, all of the following:

(A) A process that provides criteria for the rank ordering and ~~selection~~ selecting of least-cost and best-fit eligible renewable energy resources to comply with the California Renewables Portfolio Standard Program obligations on a total cost basis. This process shall take into account all of the following:

(i) Estimates of indirect costs associated with needed transmission investments and ongoing electrical corporation expenses resulting from integrating and operating eligible renewable energy resources.

(ii) The cost impact of procuring the eligible renewable energy resources on the electrical corporation's electricity portfolio.

(iii) The viability of the project to construct and reliably operate the eligible renewable energy resource, including the developer's experience, the feasibility of the technology used to generate electricity, and the risk that the facility will not be built, or that

1 construction will be delayed, with the result that electricity will
2 not be supplied as required by the contract.

3 (iv) Workforce recruitment, training, and retention efforts,
4 including the employment growth associated with the construction
5 and operation of eligible renewable energy resources and goals
6 for recruitment and training of women, minorities, and disabled
7 veterans.

8 (v) *Procurement of specific types of eligible renewable energy*
9 *resources necessary to maintain the reliability of the electrical*
10 *grid to meet electrical demand on a 24-hour basis, including*
11 *identifying the eligible renewable energy resources by type and*
12 *operating characteristics.*

13 (vi) *Consideration of the attributes of utilizing geothermal*
14 *resources, including their system inertia, small footprint in terms*
15 *of surface land requirements, habitat and other environmental*
16 *impacts, their ability to provide baseload generation while*
17 *reducing emissions resulting from the burning of fossil fuels in an*
18 *air basin designated as including a federal extreme nonattainment*
19 *area, and their ability to act as a hedge against fuel price increases*
20 *to ensure a balanced portfolio.*

21 (vii) *Consideration of eligible renewable energy resources in*
22 *the area of the Salton Sea that provide additional environmental*
23 *benefits that should be encouraged to meet the state's mitigation*
24 *requirements for the region.*

25 (B) Rules permitting retail sellers to accumulate, beginning
26 January 1, 2011, excess procurement in one compliance period to
27 be applied to any subsequent compliance period. The rules shall
28 apply equally to all retail sellers. In determining the quantity of
29 excess procurement for the applicable compliance period, the
30 commission shall deduct from actual procurement quantities, the
31 total amount of procurement associated with contracts of less than
32 10 years in duration. In no event shall electricity products meeting
33 the portfolio content of paragraph (3) of subdivision (b) of Section
34 399.16 be counted as excess procurement.

35 (C) Standard terms and conditions to be used by all electrical
36 corporations in contracting for eligible renewable energy resources,
37 including performance requirements for renewable generators. A
38 contract for the purchase of electricity generated by an eligible
39 renewable energy resource, at a minimum, shall include the
40 renewable energy credits associated with all electricity generation

1 specified under the contract. The standard terms and conditions
2 shall include the requirement that, no later than six months after
3 the commission's approval of an electricity purchase agreement
4 entered into pursuant to this article, the following information
5 about the agreement shall be disclosed by the commission: party
6 names, resource type, project location, and project capacity.

7 (D) An appropriate minimum margin of procurement above the
8 minimum procurement level necessary to comply with the
9 renewables portfolio standard to mitigate the risk that renewable
10 projects planned or under contract are delayed or canceled *or to*
11 *achieve the required balanced mix of eligible renewable energy*
12 *resources*. This paragraph does not preclude an electrical
13 corporation from voluntarily proposing a margin of procurement
14 above the appropriate minimum margin established by the
15 commission.

16 (5) Consistent with the goal of increasing California's reliance
17 on eligible renewable energy resources, the renewable energy
18 procurement plan submitted by an electrical corporation shall
19 include all of the following:

20 (A) An assessment of annual or multiyear portfolio supplies
21 and demand to determine the optimal mix of eligible renewable
22 energy resources with deliverability characteristics that may include
23 peaking, dispatchable, baseload, firm, and as-available capacity,
24 *with identification of each source of supply by resource type and*
25 *detail on how the mix of resources will maintain reliability of the*
26 *electrical grid throughout each 24-hour period*.

27 (B) Potential compliance delays related to the conditions
28 described in paragraph (4) of subdivision (b) of Section 399.15.

29 (C) A bid solicitation setting forth the need for eligible
30 renewable energy resources of each deliverability characteristic,
31 required online dates, and locational preferences, if any.

32 (D) A status update on the development schedule of all eligible
33 renewable energy resources currently under contract.

34 (E) Consideration of mechanisms for price adjustments
35 associated with the costs of key components for eligible renewable
36 energy resource projects with online dates more than 24 months
37 after the date of contract execution.

38 (F) An assessment of the risk that an eligible renewable energy
39 resource will not be built, or that construction will be delayed,

1 with the result that electricity will not be delivered as required by
2 the contract.

3 (6) In soliciting and procuring eligible renewable energy
4 resources, each electrical corporation shall offer contracts of no
5 less than 10 years duration, unless the commission approves of a
6 contract of shorter duration.

7 (7) In soliciting and procuring eligible renewable energy
8 resources for California-based projects, each electrical corporation
9 shall give preference to renewable energy projects that provide
10 environmental and economic benefits to communities afflicted
11 with poverty or high unemployment, or that suffer from high
12 emission levels of toxic air contaminants, criteria air pollutants,
13 and greenhouse gases.

14 (8) *In soliciting and procuring eligible renewable energy*
15 *resources, each electrical corporation shall give preference to*
16 *resource types that will contribute toward ensuring a balanced*
17 *resource mix that maintains reliability of the electrical grid*
18 *throughout each 24-hour period without increasing consumption*
19 *of fossil fuels.*

20 (b) A retail seller may enter into a combination of long- and
21 short-term contracts for electricity and associated renewable energy
22 credits. The commission may authorize a retail seller to enter into
23 a contract of less than 10 years' duration with an eligible renewable
24 energy resource, if the commission has established, for each retail
25 seller, minimum quantities of eligible renewable energy resources
26 to be procured through contracts of at least 10 years' duration.

27 (c) The commission shall review and accept, modify, or reject
28 each electrical corporation's renewable energy resource
29 procurement plan prior to the commencement of renewable energy
30 procurement pursuant to this article by an electrical corporation.

31 (d) Unless previously preapproved by the commission, an
32 electrical corporation shall submit a contract for the generation of
33 an eligible renewable energy resource to the commission for review
34 and approval consistent with an approved renewable energy
35 resource procurement plan. If the commission determines that the
36 bid prices are elevated due to a lack of effective competition among
37 the bidders, the commission shall direct the electrical corporation
38 to renegotiate the contracts or conduct a new solicitation.

39 (e) If an electrical corporation fails to comply with a commission
40 order adopting a renewable energy resource procurement plan, the

1 commission shall exercise its authority pursuant to Section 2113
2 to require compliance. The commission shall enforce comparable
3 penalties on any retail seller that is not an electrical corporation
4 that fails to meet the procurement targets established pursuant to
5 Section 399.15.

6 (f) (1) The commission may authorize a procurement entity to
7 enter into contracts on behalf of customers of a retail seller for
8 electricity products from eligible renewable energy resources to
9 satisfy the retail seller's renewables portfolio standard procurement
10 requirements. The commission shall not require any person or
11 corporation to act as a procurement entity or require any party to
12 purchase eligible renewable energy resources from a procurement
13 entity.

14 (2) Subject to review and approval by the commission, the
15 procurement entity shall be permitted to recover reasonable
16 administrative and procurement costs through the retail rates of
17 end-use customers that are served by the procurement entity and
18 are directly benefiting from the procurement of eligible renewable
19 energy resources.

20 (g) Procurement and administrative costs associated with
21 contracts entered into by an electrical corporation for eligible
22 renewable energy resources pursuant to this article and approved
23 by the commission are reasonable and prudent and shall be
24 recoverable in rates.

25 (h) Construction, alteration, demolition, installation, and repair
26 work on an eligible renewable energy resource that receives
27 production incentives pursuant to Section 25742 of the Public
28 Resources Code, including work performed to qualify, receive, or
29 maintain production incentives, are "public works" for the purposes
30 of Chapter 1 (commencing with Section 1720) of Part 7 of Division
31 2 of the Labor Code.

32 *SEC. 3. Section 399.15 of the Public Utilities Code is amended*
33 *to read:*

34 399.15. (a) In order to fulfill unmet long-term resource needs,
35 the commission shall establish a renewables portfolio standard
36 requiring all retail sellers to procure a minimum quantity of
37 electricity products from eligible renewable energy resources as
38 a specified percentage of total kilowatthours sold to their retail
39 end-use customers each compliance period to achieve the targets
40 established under this article. For any retail seller procuring at least

1 14 percent of retail sales from eligible renewable energy resources
2 in 2010, the deficits associated with any previous renewables
3 portfolio standard shall not be added to any procurement
4 requirement pursuant to this article.

5 (b) The commission shall implement renewables portfolio
6 standard procurement requirements only as follows:

7 (1) Each retail seller shall procure a minimum quantity of
8 eligible renewable energy resources for each of the following
9 compliance periods:

10 (A) January 1, 2011, to December 31, 2013, inclusive.

11 (B) January 1, 2014, to December 31, 2016, inclusive.

12 (C) January 1, 2017, to December 31, 2020, inclusive.

13 (2) (A) No later than January 1, 2012, the commission shall
14 establish the quantity of electricity products from eligible
15 renewable energy resources to be procured by the retail seller for
16 each compliance period. These quantities shall be established in
17 the same manner for all retail sellers and result in the same
18 percentages used to establish compliance period quantities for all
19 retail sellers.

20 (B) In establishing quantities for the compliance period from
21 January 1, 2011, to December 31, 2013, inclusive, the commission
22 shall require procurement for each retail seller equal to an average
23 of 20 percent of retail sales. For the following compliance periods,
24 the quantities shall reflect reasonable progress in each of the
25 intervening years sufficient to ensure that the procurement of
26 electricity products from eligible renewable energy resources
27 achieves 25 percent of retail sales by December 31, 2016, and 33
28 percent of retail sales by December 31, 2020. The commission
29 shall require retail sellers to procure not less than 33 percent of
30 retail sales of electricity products from eligible renewable energy
31 resources in all subsequent years.

32 (C) Retail sellers shall be obligated to procure no less than the
33 quantities associated with all intervening years by the end of each
34 compliance period. Retail sellers shall not be required to
35 demonstrate a specific quantity of procurement for any individual
36 intervening year.

37 (3) The commission shall not require the procurement of eligible
38 renewable energy resources in excess of the quantities identified
39 in paragraph (2), *except to the extent necessary to ensure a*
40 *balanced mix of eligible renewable energy resources with attributes*

1 *necessary to ensure an adequate and reliable supply of electrical*
2 *generation from eligible renewable energy resources that best*
3 *matches the demand for electricity and maintains the reliability*
4 *of the electrical grid.* A retail seller may voluntarily increase its
5 procurement of eligible renewable energy resources beyond the
6 renewables portfolio standard procurement requirements.

7 (4) Only for purposes of establishing the renewables portfolio
8 standard procurement requirements of paragraph (1) and
9 determining the quantities pursuant to paragraph (2), the
10 commission shall include all electricity sold to retail customers by
11 the Department of Water Resources pursuant to Division 27
12 (commencing with Section 80000) of the Water Code in the
13 calculation of retail sales by an electrical corporation.

14 (5) The commission shall waive enforcement of this section if
15 it finds that the retail seller has demonstrated any of the following
16 conditions are beyond the control of the retail seller and will
17 prevent compliance:

18 (A) There is inadequate transmission capacity to allow for
19 sufficient electricity to be delivered from proposed eligible
20 renewable energy resource projects using the current operational
21 protocols of the Independent System Operator. In making its
22 findings relative to the existence of this condition with respect to
23 a retail seller that owns transmission lines, the commission shall
24 consider both of the following:

25 (i) Whether the retail seller has undertaken, in a timely fashion,
26 reasonable measures under its control and consistent with its
27 obligations under local, state, and federal laws and regulations, to
28 develop and construct new transmission lines or upgrades to
29 existing lines intended to transmit electricity generated by eligible
30 renewable energy resources. In determining the reasonableness of
31 a retail seller's actions, the commission shall consider the retail
32 seller's expectations for full-cost recovery for these transmission
33 lines and upgrades.

34 (ii) Whether the retail seller has taken all reasonable operational
35 measures to maximize cost-effective deliveries of electricity from
36 eligible renewable energy resources in advance of transmission
37 availability.

38 (B) Permitting, interconnection, or other circumstances that
39 delay procured eligible renewable energy resource projects, or
40 there is an insufficient supply of eligible renewable energy

resources available to the retail seller. In making a finding that this condition prevents timely compliance, the commission shall consider whether the retail seller has done all of the following:

(i) Prudently managed portfolio risks, including relying on a sufficient number of viable projects *and procuring a sufficiently balanced mix of different types of eligible renewable energy resources with characteristics sufficient to maintain reliability of the electrical grid, including system inertia.*

(ii) Sought to develop one of the following: its own eligible renewable energy resources, transmission to interconnect to eligible renewable energy resources, or energy storage used to integrate eligible renewable energy resources. This clause shall not require an electrical corporation to pursue development of eligible renewable energy resources pursuant to Section 399.14.

(iii) Procured an appropriate minimum margin of procurement above the minimum procurement level necessary to comply with the renewables portfolio standard to compensate for foreseeable delays or insufficient supply.

(iv) Taken reasonable measures, under the control of the retail seller, to procure cost-effective distributed generation and allowable unbundled renewable energy credits.

(C) Unanticipated curtailment of eligible renewable energy resources necessary to address the needs of a balancing authority, *but only to the extent that the retail seller has demonstrated that it has procured a balanced mix of different resource types with characteristics sufficient to maintain reliability of the electrical grid, including system inertia.*

(6) If the commission waives the compliance requirements of this section, the commission shall establish additional reporting requirements on the retail seller to demonstrate that all reasonable actions under the control of the retail seller are taken in each of the intervening years sufficient to satisfy future procurement requirements.

(7) The commission shall not waive enforcement pursuant to this section, unless the retail seller demonstrates that it has taken all reasonable actions under its control, as set forth in paragraph (5), to achieve full compliance.

(8) If a retail seller fails to procure sufficient eligible renewable energy resources to comply with a procurement requirement pursuant to paragraphs (1) and (2) and fails to obtain an order from

1 the commission waiving enforcement pursuant to paragraph (5),
2 the commission shall exercise its authority pursuant to Section
3 2113.

4 (9) Deficits associated with the compliance period shall not be
5 added to a future compliance period.

6 (c) The commission shall establish a limitation for each electrical
7 corporation on the procurement expenditures for all eligible
8 renewable energy resources used to comply with the renewables
9 portfolio standard. In establishing this limitation, the commission
10 shall rely on the following:

11 (1) The most recent renewable energy procurement plan.

12 (2) Procurement expenditures that approximate the expected
13 cost of building, owning, and operating eligible renewable energy
14 resources.

15 (3) The potential that some planned resource additions may be
16 delayed or canceled.

17 (4) *The amount of additional eligible renewable energy*
18 *resources of specific characteristics required to be procured to*
19 *ensure reliability of the electrical grid.*

20 (d) In developing the limitation pursuant to subdivision (c), the
21 commission shall ensure all of the following:

22 (1) The limitation is set at a level that prevents disproportionate
23 rate impacts.

24 (2) The costs of all procurement credited toward achieving the
25 renewables portfolio standard are counted towards the limitation.

26 (3) Procurement expenditures do not include any indirect
27 expenses, including imbalance energy charges, sale of excess
28 energy, decreased generation from existing resources, transmission
29 upgrades, or the costs associated with relicensing any utility-owned
30 hydroelectric facilities.

31 (e) (1) No later than January 1, 2016, the commission shall
32 prepare a report to the Legislature assessing whether each electrical
33 corporation can achieve a 33-percent renewables portfolio standard
34 by December 31, 2020, and maintain that level thereafter, within
35 the adopted cost limitations. If the commission determines that it
36 is necessary to change the limitation for procurement costs incurred
37 by any electrical corporation after that date, it may propose a
38 revised cap consistent with the criteria in subdivisions (c) and (d).
39 The proposed modifications shall take effect no earlier than January
40 1, 2017.

(2) Notwithstanding Section 10231.5 of the Government Code, the requirement for submitting a report imposed under paragraph (1) is inoperative on January 1, 2021.

(3) A report to be submitted pursuant to paragraph (1) shall be submitted in compliance with Section 9795 of the Government Code.

(f) If the cost limitation for an electrical corporation is insufficient to support the projected costs of meeting the renewables portfolio standard procurement requirements, the electrical corporation may refrain from entering into new contracts or constructing facilities beyond the quantity that can be procured within the limitation, unless eligible renewable energy resources can be procured without exceeding a de minimis increase in rates, consistent with the long-term procurement plan established for the electrical corporation pursuant to Section 454.5.

(g) (1) The commission shall monitor the status of the cost limitation for each electrical corporation in order to ensure compliance with this article.

(2) If the commission determines that an electrical corporation may exceed its cost limitation prior to achieving the renewables portfolio standard procurement requirements, the commission shall do both of the following within 60 days of making that determination:

(A) Investigate and identify the reasons why the electrical corporation may exceed its annual cost limitation.

(B) Notify the appropriate policy and fiscal committees of the Legislature that the electrical corporation may exceed its cost limitation, and include the reasons why the electrical corporation may exceed its cost limitation.

(h) The establishment of a renewables portfolio standard shall not constitute implementation by the commission of the federal Public Utility Regulatory Policies Act of 1978 (Public Law 95-617).

SEC. 4. Section 399.16 of the Public Utilities Code is amended to read:

399.16. (a) Various electricity products, *with various characteristics*, from eligible renewable energy resources located within the WECC transmission network service area shall be eligible to comply with the renewables portfolio standard procurement requirements in Section 399.15. These electricity

1 products *and characteristics, including system inertia*, may be
2 differentiated by their impacts on the operation of the *electrical*
3 grid in supplying electricity *and maintaining the reliability of the*
4 *electrical grid*, as well as, meeting the requirements of this article.

5 (b) Consistent with the goals of procuring the least-cost and
6 best-fit electricity products from eligible renewable energy
7 resources that meet project viability principles adopted by the
8 commission pursuant to paragraph (4) of subdivision (a) of Section
9 399.13 and that provide the benefits set forth in Section 399.11, a
10 balanced portfolio of eligible renewable energy resources shall be
11 procured consisting of the following portfolio content categories
12 *and characteristics*:

13 (1) Eligible renewable energy resource electricity products that
14 meet ~~either~~ *any* of the following criteria:

15 (A) Have a first point of interconnection with a California
16 balancing authority, have a first point of interconnection with
17 distribution facilities used to serve end users within a California
18 balancing authority area, or are scheduled from the eligible
19 renewable energy resource into a California balancing authority
20 without substituting electricity from another source. The use of
21 another source to provide real-time ancillary services required to
22 maintain an hourly or subhourly import schedule into a California
23 balancing authority shall be permitted, but only the fraction of the
24 schedule actually generated by the eligible renewable energy
25 resource shall count toward this portfolio content category.

26 (B) Have an agreement to dynamically transfer electricity to a
27 California balancing authority.

28 (C) *Have characteristics that are capable of providing a diverse*
29 *and balanced mix of eligible renewable energy resources that can*
30 *contribute to maintaining reliability of the electrical grid to meet*
31 *the demand for electricity in every 24-hour period and can include*
32 *electrical generation produced on an as-available, firm,*
33 *dispatchable, or ramping basis, providing system inertia benefits,*
34 *whether from the generating facility alone or in combination with*
35 *additional technologies, including energy storage.*

36 (2) Firmed and shaped eligible renewable energy resource
37 electricity products providing incremental electricity and scheduled
38 into a California balancing authority.

39 (3) Eligible renewable energy resource electricity products, or
40 any fraction of the electricity generated, including unbundled

1 renewable energy credits, that do not qualify under the criteria of
2 paragraph (1) or (2).

3 (c) In order to achieve a balanced portfolio, all retail sellers
4 shall meet the following requirements for all procurement credited
5 toward each compliance period:

6 (1) Not less than 50 percent for the compliance period ending
7 December 31, 2013, 65 percent for the compliance period ending
8 December 31, 2016, and 75 percent thereafter of the eligible
9 renewable energy resource electricity products associated with
10 contracts executed after June 1, 2010, shall meet the product
11 content requirements of paragraph (1) of subdivision (b).

12 (2) Not more than 25 percent for the compliance period ending
13 December 31, 2013, 15 percent for the compliance period ending
14 December 31, 2016, and 10 percent thereafter of the eligible
15 renewable energy resource electricity products associated with
16 contracts executed after June 1, 2010, shall meet the product
17 content requirements of paragraph (3) of subdivision (b).

18 (3) Any renewable energy resources contracts executed on or
19 after June 1, 2010, not subject to the limitations of paragraph (1)
20 or (2), shall meet the product content requirements of paragraph
21 (2) of subdivision (b).

22 (4) For purposes of electric service providers only, the
23 restrictions in this subdivision on crediting eligible renewable
24 energy resource electricity products to each compliance period
25 shall apply to contracts executed after January 13, 2011.

26 (d) Any contract or ownership agreement originally executed
27 prior to June 1, 2010, shall count in full toward the procurement
28 requirements established pursuant to this article, if all of the
29 following conditions are met:

30 (1) The renewable energy resource was eligible under the rules
31 in place as of the date when the contract was executed.

32 (2) For an electrical corporation, the contract has been approved
33 by the commission, even if that approval occurs after June 1, 2010.

34 (3) Any contract amendments or modifications occurring after
35 June 1, 2010, do not increase the nameplate capacity or expected
36 quantities of annual generation, or substitute a different renewable
37 energy resource. The duration of the contract may be extended if
38 the original contract specified a procurement commitment of 15
39 or more years.

(e) A retail seller may apply to the commission for a reduction of a procurement content requirement of subdivision (c). The commission may reduce a procurement content requirement of subdivision (c) to the extent the retail seller demonstrates that it cannot comply with that subdivision because of conditions beyond the control of the retail seller as provided in paragraph (5) of subdivision (b) of Section 399.15. The commission shall not, under any circumstance, reduce the obligation specified in paragraph (1) of subdivision (c) below 65 percent for any compliance obligation after December 31, 2016.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

~~SECTION 1. Section 40709.8 is added to the Health and Safety Code, to read:~~

~~40709.8. A district that has established a system pursuant to Section 40709 by which reductions in emissions may be banked or otherwise credited to offset future increases in the emissions of air contaminants, or that utilizes a calculation method that enables internal emissions reductions to be credited against increases in emissions, shall not impose any conditions to physically destroy existing equipment that may be currently operating or not operating that is or will be retired at an electrical generation facility unless either of the following applies:~~

~~(a) The owner or operator retires that equipment to provide emission reduction credits, emission offsets, or an offset exemption from the district.~~

~~(b) The new source review program of the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.) requires the imposition of such a condition.~~

~~SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or~~

- 1 level of service mandated by this act, within the meaning of Section
- 2 17556 of the Government Code.

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